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Serial No. 10/710,308
Attorney Docket No. 70655.1400

DEC 07 2006

REMARKS

Applicants reply to the Office Action mailed on October 10, 2006. Claims 1-11 and 13-15 were pending and the Examiner rejects claims 1-11 and 13-15. In reply, Applicants amend claims 1, 11, 13, 14, 15 and 16, cancel claim 18, add claims 19-22, and address the Examiner's remarks. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

Applicants respectfully assert that the subject matter of the various claims was commonly owned at the time the inventions covered therein were made and therefore, Applicants have complied with 37 C.F.R. § 1.56.

35 U.S.C. § 103 REJECTION

Claims 1-11, 13 and 16-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Li, U.S. Pub. No. 2002/0153242 ("Li") in view of Saito, U.S. Pub. No. 2005/0240778 ("Saito") and Hohle et al. U.S. Pat. No. 6,101,477 ("Hohle"). Claims 1, 9, 11 and 13-14 stand rejected over Li/Saito/Hohle in view of Baer, U.S. Pub. No. 2002/0232471 ("Baer"). Claims 1, 9, 11 and 13-14 stand rejected over Li/Saito/Hohle in view of Jensen et al., U.S. Pub. No. 2005/0165684 ("Jensen"). Claims 1-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burchette Jr., U.S. Pub. No. 2003/0106935 ("Burchette") in view of Saito/Hohle. Claim 15 stands rejected over Li/Saito/Hohle in view of Black, U.S. Pub. No. 2005/0122209 ("Black"). Applicants respectfully traverse these rejections.

Applicants' amendment to independent claim 1 renders these rejections moot. While Li, Saito, Hohle, Baer, Burchette, and Black disclose various biometric or smartcard technologies useful in transactions, neither Li, Saito, Hohle, Baer, Burchette, Black, nor any combination thereof, disclose or suggest a method comprising at least "generating data representing said proffered biometric sample; [and] using said data representing said proffered biometric sample as a variable in an encryption calculation to secure at least one of user data and transaction data," as recited in amended claim 1.

Accordingly, Applicants assert that claim 1 is patentable over the cited references. Claims 2-11, 13-17, and 19-21 variously depend from claim 1 and contain all of the elements thereof. Therefore, Applicants respectfully submit that claims 2-11, 13-17, and 19-21 are

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differentiated from the cited reference at least for the same reasons as set forth above, in addition to their own respective features.

The amendments to the claims are supported in the specification by at least paragraphs [00331-00332]:

[00331] In another exemplary embodiment of the present invention, one or more biometric samples may be used to sign and/or encrypt information. For example, smartcard 100 and/or reader 2500 may be configured to receive a biometric sample from a user. The sample may then be digitized and used, for example, as a variable in an encryption calculation to secure data. If the user wants to retrieve the encrypted data, the user must submit the relevant biometric sample and have it authenticated by any of the methods described herein. Once the biometric sample is authenticated, the data will be decrypted for access.

[00332] Similarly, a biometric may be used as both a private key and a public key for encryption purposes. In one exemplary embodiment, an entity may use stored biometric sample information to encrypt data in a manner similar to a public key. The data may then be configured such that it is only accessible by a real biometric sample, for example, by a user proffering a fingerprint sample at a reader. Upon verification of the real biometric sample, the data may be decrypted and/or retrieved.

Additional support is found in at least paragraphs [00138-00146, 00249, 00253, 00316, and 00320]

Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-11 and 13-17.

NEW CLAIMS 19-22

New claim 22 is differentiated from the cited references at least for the same reasons set forth above with respect to claim 1. New claims 19-21 variously depend from claim 1 and contain all of the elements thereof. Therefore, Applicants assert that new claims 19-22 are differentiated from the cited references at least for the same reasons as set forth above, in addition to their own respective features.

For example, neither the cited references, nor any combination of thereof, disclose or suggest at least a method comprising "comprising using said data representing said proffered biometric sample as at least one of a private key, a public key, and a message authentication code

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to facilitate transaction security measures” as recited in new claim 19. Similarly, neither the cited references, nor any combination of thereof, disclose or suggest at least a method comprising “using said data representing said proffered biometric sample in generating a message authentication code and as at least one of a private key and a public key” as recited in new claim 20.

Accordingly, Applicants assert that new claims 19-22 are likewise patentable over the cited references.

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CONCLUSION

Applicants respectfully submit that the pending claims (20 total, 2 independent) are in condition for allowance. No new matter is added in this Reply. Reconsideration of the application is thus requested. **The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814.** Applicants invite the Examiner to telephone the undersigned if the Examiner has any questions regarding this Reply or the application in general.

Respectfully submitted,

Dated: December 7, 2006By: 

Howard I. Sobelman
Reg. No. 39,038

SNELL & WILMER L.L.P.
400 East Van Buren
One Arizona Center
Phoenix, Arizona 85004-2202
Telephone: (602) 382-6228
Facsimile: (602) 382-6070
E-mail: hsobelman@swlaw.com
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